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Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAI'I

LIMU COALITION, a Hawai'i	)	CV. NO. 02-00521 SPK BMK
non-profit corporation, and	)	
KILAUEA NEIGHBORHOOD	)	SETTLEMENT AGREEMENT AND
ASSOCIATION, a Hawai'i non-	)	ORDER
profit corporation,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	
	)	
JAMES H. PFLUEGER; PFLUEGER	)	
PROPERTIES, a Hawai'i	)	
limited partnership; and	)	
PILA'A 400, LLC, a Hawai'i	)	
limited liability company,	)	
	)	
Defendants.	)	

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SETTLEMENT AGREEMENT AND ORDER

WHEREAS, on August 19, 2002, Plaintiffs Limu  
Coalition and Kilauea Neighborhood Association filed a  
Complaint, since amended, against defendants James H.  
Pflueger, Pflueger Properties LLP, and Pila'a 400, LLC,

alleging violations of the federal Clean Water Act, 33 U.S. C. §§ 1251 et seq., associated with Defendants' construction activities on property at Pīla`a, Kaua`i, Hawai`i; and

WHEREAS, it is in the interests of the public, the parties and judicial economy to resolve the claims relating to attorneys fees in this action without further litigation;

The Parties therefore stipulate and agree to the following:

1. Nothing in this agreement shall be construed or offered in evidence in any proceeding as an admission or concession of any issue of fact or question of law concerning the claims for attorneys fees settled under this agreement. This agreement is executed solely for the purpose of compromising and settling the claim for attorneys fees.

2. Pursuant to Paragraph 82 of the Consent Decree, Defendants agree to pay to plaintiffs the sum of \$325,000 in full satisfaction of any and all claims

against Defendants for attorneys' fees, costs, and other expenses related to the above-referenced action and any and all related actions, suits and investigations, including but not limited to DLNR File KA-04-02 and Hawai'i Circuit Court Case No. 03-1-1203-06 incurred as of the date the Order approving this agreement is filed. This agreement settles all claims for attorneys fees brought by Plaintiffs against Defendants in this case prior to such date and represents the entirety of the Parties' commitments with regard to settlement of such claims.

3. If, prior to the termination of the consent decree, Plaintiffs incur additional fees or costs for work reasonably spent to monitor and enforce compliance with the Consent Decree, pursuant to Paragraph 82.b. of the Consent Decree, Plaintiffs reserve the right to seek future awards of those fees and costs and Defendants reserve the right to assert that Plaintiffs are not entitled to such fees and costs. This Court

retains jurisdiction to resolve those matters should they arise.

DATED: October 16, 2006.

By: /s/  
WESLEY H.H. CHING  
NOEL WISE  
Attorneys for Defendants James  
H. Pflueger, Pflueger  
Properties, and Pila'a 400,  
LLC

DATED: October 11, 2006.

By: /s/  
PAUL H. ACHITOFF  
Attorneys for Plaintiffs Limu  
Coalition and Kilauea  
Neighborhood Association

APPROVED AND SO ORDERED.



/s/ Barry M. Kurren  
United States Magistrate Judge  
Dated: October 18, 2006

Limu Coalition, et al., v. Pflueger, et al., Civ. No.  
02-00521 SPK BMK; SETTLEMENT AGREEMENT AND ORDER